

**STATE OF MARYLAND**  
**MARYLAND JUDICIARY**  
**ADMINISTRATIVE OFFICE OF THE COURTS**

**MARYLAND JUDICIAL CENTER**  
**580 TAYLOR AVENUE, 1ST FLOOR**  
**ANNAPOLIS, MARYLAND 21401**

**REQUEST FOR PROPOSAL**  
**NO. K-07-7089-25**

**MAINTENANCE AND REPAIR SERVICES FOR MICROFILM**  
**EQUIPMENT AT VARIOUS LOCATIONS**

**Date of Issuance:** March 7, 2007  
**Bid Due Date and Time:** March 27, 2007, 12:00 P.M.

**WARNING:** Prospective Offerors who have received this document from a source other than the Issuing Office should immediately contact the Issuing Office and provide their name and mailing address so that amendments to the RFP or other communications can be sent to them. A prospective Offeror who fails to notify the Issuing Office with this information assumes complete responsibility in the event that they do not receive communications from the Issuing Office prior to the closing date.

**Special Note:** Prospective Offerors must contact the Office of Procurement and Contract Administration to receive the appendices for this solicitation. Please contact Raymond Mack (410) 260-1410 or Bernard Miles (410) 260-1594.

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## **SECTION I GENERAL INFORMATION**

A. Summary Statement

Contractor shall provide all labor, expertise, supervision, materials, and equipment required to furnish maintenance and repair services for **Microfilm Equipment**. This equipment is located in the Land Records Division of the Clerk of Court Offices in all twenty-three counties and Baltimore City. Contract may be awarded to a single or multiple vendors at the sole discretion of the AOC.

B. Background

Not applicable.

C. Procurement Office Mailing Address

**Proposals shall be addressed to:  
ATTN: Raymond Mack  
Procurement and Contract Administration  
Administrative Office of the Courts  
Maryland Judicial Center  
580 Taylor Avenue 2nd Floor  
Annapolis, Maryland 21401**

D. Questions/Inquiries

All questions shall be submitted in writing to Raymond Mack must be received no later than one week (7) days prior to the proposal due date. Written responses shall be provided. Questions will be accepted by FAX at (410) 260-1749 or e-mail at raymond.mack@courts.state.md.us.

E. Closing Date

Your bid must arrive at the aforementioned office no later than 12:00 p.m. on March 27, 2007, in order to be considered. Offerors who mail proposals should allow sufficient mail delivery time to ensure timely receipt by the Procurement Office. Bids arriving after the closing time and date will not be considered. Bids are to be marked **SOLICITATION NO. K-07-7089-25; MAINTENANCE AND REPAIR SERVICES FOR MICROFILM EQUIPMENT**, on the outside of the envelope.

F. Pre-Proposal Conference

Not applicable.

G. Proposal Opening

The Procurement Office shall hold all proposals and modifications in a secure place until the due date, after which time the proposals and modifications, if any, will be opened in the presence of at least two State employees and a register of proposals will be prepared.

H. Duration of Proposal Offer

Proposals shall be valid and irrevocable for 180 days following the closing date for this RFP. This period may be extended by written agreement between an Offeror and the AOC Procurement Officer.

I. Addenda to the RFB

If the AOC Procurement Officer finds it necessary to revise any part of this RFB, an addendum will be provided to all contractors known to have received the RFB. Acknowledgment of the receipt of all amendments, addenda, and changes if issued shall be returned to the Procurement Officer, in writing, with the proposal.

J. Cancellation of RFB

The AOC Procurement Officer may cancel this RFB, in whole or in part, at any time before the opening of the proposals.

K. Incurred Expenses

Neither the State or the AOC or any of their officers or employees shall be responsible for any cost incurred by any Offeror in preparing and/or submitting a proposal.

L. Economy of Preparation

Proposals should be prepared simply and economically, providing a concise and straightforward description of the Contractor's offer to meet the requirements set forth in the RFP.

M. Public Information Act Notice

Offerors shall give specific attention to the identification of those portions of their proposals which they deem to be confidential, proprietary information or trade secrets, and provide any justification of why such materials, upon request, should not be disclosed by the State pursuant to ' 10-617(d) of the State Government Article, Annotated Code of Maryland, or other law relating to access to public records.

N. Subcontractors

The AOC will enter into an agreement with the selected offering Contractor(s) only. The selected Contractor(s) shall be responsible for all products and services as required by this RFP.

Subcontractors, if any, shall be identified and a complete description of their role relative to this proposal shall be included at the time of the proposal opening.

O. Type of Contract

The contract resulting from this RFP will be a fixed-price contract.

P. General Contractual Conditions

Any contract resulting from this RFP will contain the general provisions included in **Appendix 1**. Additionally, this RFP, including the Statement of Work, and the successful Offeror's proposal will be incorporated by reference and made a part of the contract.

Q. Proposal Affidavit

Each proposal shall include a completed Proposal Affidavit. A copy of the affidavit is included in **Appendix 2** of this RFP for the convenience of Offerors.

R. Contract Affidavit

Offerors are advised that if a contract is awarded as a result of this RFP, the successful Offeror will be required to complete a Contract Affidavit. A copy of this Contract Affidavit is included in **Appendix 3** of this RFP for information purposes only. The Contract Affidavit is not required to be submitted with this proposal.

S. Minority Business Enterprises

Minority Business Enterprises are encouraged to respond to this solicitation notice. It is the goal of the Maryland Judiciary that certified minority business enterprises participate on Judiciary's supply, maintenance, general miscellaneous and service procurements.

An MBE subcontract participation goal of fifteen percent (15%) of the total current amount has been established for this procurement. By submitting a response to this solicitation, the bidder or offeror agrees that this amount of the contract will be performed by minority business enterprises.

If this solicitation carries an MBE subcontractor participation goal (see above paragraph), respondents are required to submit as part of the bid proposal package the following forms:

- MJ-EE0-03 – Schedule for participation of Minority Business Enterprise
- MJ-EE0-04 – Minority Contractor Project Disclosure and Participation Statement

Failure to submit the required forms may result in your bid proposal being deemed non-responsive.

#### T. Evaluation and Award of Sealed Competitive Bids

The procurement method being used is the sealed competitive bid method.

Respondents shall submit one copy of their quote, including all attachments on or before the date and time specified in this bid package. Any and all bids received after the date and time specified shall be considered late and rejected on that basis. The procurement officer shall initially review each submission for responsiveness and responsibility. Bids determined to be not responsive, or bidders determined to be not responsible, shall be rejected.

The contract will be awarded to the responsible and responsive bidder whose bid meets the requirements and evaluation criteria set forth in this Invitation for Bids, and is either the most favorable bid price, or the most favorable evaluated bid price.

The Maryland Judiciary reserves the right to make the award by item, or groups of items, or total bid if it is in the best interest of the Maryland Judiciary to do so unless the bidder specifies in its bid that a partial or progressive award is not acceptable.

## SECTION II SPECIFICATIONS

### **1. GENERAL**

The Maryland Judiciary's Administrative Office of the Courts is soliciting competitive sealed bids for all labor, expertise, supervision, materials, and equipment required to furnish maintenance and repair services for **Microfilm Equipment**. This equipment is located in the Land Records Division of the Clerk of Court Offices in all twenty-three counties and Baltimore City. Contract may be awarded to a single or multiple vendors at the sole discretion of the AOC. Work shall be performed in accordance with the attached specifications and Maryland Judiciary Terms and Conditions.

Please note that this solicitation contains an MBE subcontract participation goal of fifteen percent (15%). By submitting a response to this solicitation, the bidder or offeror agrees that this amount of the contract will be performed by minority business enterprises.

## **2. CONTRACTOR'S RESPONSIBILITY**

### **A. General**

The work under this contract requires the Contractor(s) to **provide preventive maintenance services and repair services** on the Microfilm Equipment listed herein. Contractor shall be required to travel to the Land Records divisions of the Clerks of Court in all twenty-three Maryland counties and Baltimore City. The microfilm equipment consists of Microfilm Reader/Printers and Microfilm Readers by several different manufacturers.

Any respondent to this solicitation shall have at least three years experience in the maintenance and repair of similar equipment.

Any Respondent to this solicitation shall have maintenance facilities with sufficient inventory of replacement placement parts and technicians trained to work on the specified equipment.

These maintenance services shall cover all parts, labor, shipping costs and "loaner" equipment.

The Maryland Judiciary reserves the right to add or remove equipment at any time during the contract period at its sole discretion.

### **B. Preventative Maintenance Services**

Contractor shall be required to provide Preventative Maintenance Services such as cleaning, lubricating, testing, adjusting, etc. Additionally, Contractor shall provide service on each piece of equipment not less than one (1) time per year. All preventive maintenance and repair work shall be performed in accordance with the manufacturer's recommendations. All preventive maintenance work shall be performed between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday on regular business days.

### **C. Repair Services**

Contractor shall respond, on site, to a repair call within four (4) business hours of notification of

a problem during normal business days, Monday through Fridays between the hours of 8:00 a.m. and 5:00 p.m. Equipment shall be serviced by authorized technicians only. All service work shall be performed in accordance with the manufacturer's recommendations.

#### D. Spare Parts

Contractor must stock an inventory of spare parts that is sufficient for satisfactory performance of this scope of work and access to all replacement parts within 24 hours. If replacement parts are not available, contractor shall provide loaned system components in order to maintain an operational system. Rebuilt parts and components are acceptable as long as they have been rebuilt/refurbished in accordance with manufacturer's specifications.

The contractor shall provide "consumable items" which are hereby defined as toner cartridges, lamps and other low price items that require regular replacement. Contractor shall furnish and install consumable items and charge back to the Maryland Judiciary on a monthly basis. This is a "pass through" item only and the contractor is not allowed to add any mark-up or additional cost to the price of the consumable item. A sales receipt, invoice or other written documentation of price must be provided with all invoices for consumable items.

#### E. Time and Material Service Calls

Contractor must be able to provide repair and maintenance services on a "service contract" as well as on a time and materials charge (i.e., one time charge for a service call). Currently, fifteen jurisdictions plus the Court of Special Appeals and the Maryland State Law Library participate in this "service contract" plan. The other jurisdictions pay for individual service calls on an as needed basis. The Clerk of Court will designate which plan will be used for their specific jurisdiction.

Even if a jurisdiction opts to utilize service calls on an as needed basis, all other specifications, terms and conditions contained in this solicitation shall apply. Also, a jurisdiction may change their service plan with thirty days written notice

#### F. Reporting

A monthly report must be submitted to the Procurement Officer that includes record and disposition of all service and maintenance calls.

#### G. Service Locations

Currently, fifteen jurisdictions plus the Court of Special Appeals and the Maryland State Law Library participate in this service plan. The following jurisdictions participate: Anne Arundel County, Baltimore City, Baltimore County, Caroline County, Carroll County, Charles County, Dorchester County, Harford County, Kent County, Montgomery County, Prince George's County, St. Mary's County, Washington County, Wicomico County and Worcester County. This list is subject to change.



See Appendix IV for locations and addresses.

#### H. Billing

Contractor will issue separate monthly invoices for each of the twenty-four jurisdictions (23 counties and Baltimore City). Contractor will also be required to issue monthly invoices, by jurisdiction, for all supplies.

#### I. Inventory

Successful respondent is responsible for conducting an inventory at the start of the contract. The inventory must be in writing and approved by the Clerk of Court or their designee in each jurisdiction. This mutually agreed upon inventory list shall be the basis for monthly billing and shall be kept current every month for the duration of the contract.

### **3. EQUIPMENT**

The Microfilm Equipment is manufactured by various manufacturers. The quantities, locations and model numbers are listed on Appendix V.

### **4. DURATION OF CONTRACT**

Once awarded, the Contract shall remain in force for a period not to exceed three (3) years from the date of award. Upon expiration of the Contract, or upon its earlier termination as provided herein, the AOC reserves the right to rebid or to extend for two (2) additional one (1) year periods at its sole option.

AOC, in its sole discretion, may grant an adjustment in the total value of the Contract to allow for inflationary increases for the extension periods provided, however, that any requested increase does not exceed three percent (3%) or the consumer price index (U.S. Bureau of Labor Statistics - All Urban Consumers), whichever is lower.

### **5. ESTIMATED QUANTITIES**

AOC reserves the right to increase or decrease the number of units as required. Quantities are approximate and the unit rate bid shall apply regardless of any increase or decrease in the estimated quantities shown herein.

### **6. INSURANCE REQUIREMENTS**

The Contractor shall at all times during the term of the Contract maintain in full force and effect the policies of insurance required by this Section. The Contractor, if requested by AOC, shall provide certified true copies of any and all of the policies of insurance to AOC.

Evidence that the required insurance coverage has been obtained may be provided by Certificates of Insurance duly issued and certified by the insurance company or companies furnishing such insurance. Such evidence of insurance must be delivered to the AOC Office of Procurement before the actual implementation of the Agreement.

The Insurance Certificate mentioned hereinabove must be received by the AOC Office of Procurement within ten (10) days of the notice of intent to award the Contract. In the event the Insurance Certificate is not received within ten (10) days after the date of the notice of intent to award, or if such certificate is insufficient respecting the limits and scope specified herein, then the AOC Office of Procurement reserves the right to award the Contract to another respondent. **Time is of the essence.**

All insurance policies required by this section, or elsewhere in the Contract, shall be so endorsed as to provide that the insurance carrier will be responsible for giving immediate and positive notice to AOC in the event of cancellation or restriction of the insurance policy by either the insurance carrier or the successful respondent, at least sixty (60) days prior to any such cancellation or restriction. Said insurance policies shall name as an additional insured the Administrative Office of the Courts and the Maryland Judiciary.

Please note that the limits required below may be satisfied by either individual policies or a combination of individual policies and an umbrella policy. The requiring of any and all insurance as set forth in these specifications, or elsewhere, shall be in addition to and not in any way in substitution for all the other protection provided under the Contract.

No acceptance and/or approval of any insurance by AOC, or the Manager of Procurement, shall be construed as relieving or excusing the Contractor from any liability or obligation imposed upon it by the provisions of the Contract.

#### **A. WORKER'S COMPENSATION**

1. The Contractor shall maintain Worker's Compensation insurance as required by the laws of the State of Maryland and including Employer's Liability coverage with a minimum limit of \$500,000-each accident; \$500,000 disease-each employee; and \$500,000 disease-policy limit.

#### **B. LIABILITY INSURANCE**

Occurrence forms of comprehensive general liability insurance covering the full scope of this agreement with limits not less than \$1,000,000 per occurrence and \$2,000,000 aggregate for personal or bodily injuries and \$1,000,000 per occurrence and aggregate for property damage. A combined single limit per occurrence of \$2,000,000 is acceptable. All policies issued shall include permission for partial or

total occupancy of the premises by or for the Administrative Office of the Courts within the scope of this Contract. Such insurance shall include but shall not be limited to, the following:

1. Comprehensive general liability insurance including a comprehensive broad form endorsement and covering: a) all premises-operations, b) completed operations, c) independent Contractors, d) liability assumed by oral or written contract or agreement, including this contract, e) additional interests of employees, f) notice of occurrence, g) knowledge of occurrence by specified official, h) unintentional errors and omissions, i) incidental (contingent) medical malpractice, j) extended definition of bodily injury, k) personal injury coverage (hazards A and B) with no exclusions for liability assumed contractually or injury sustained by employees of Contractor, l) broad form coverage for damage to property of the Administrative Office of the Courts, as well as other third parties resulting from completion of the Contractor's services.
2. Comprehensive business automobile liability insurance covering use of any motor vehicle to be used in conjunction with this contract, including hired automobiles and non-owned automobiles.

#### **C. COMPREHENSIVE AUTOMOBILE LIABILITY**

Limit of Liability - \$ 1,000,000 Bodily Injury  
\$ 1,000,000 Property Damage

In addition to owned automobiles, the coverage shall include hired automobiles and non-owned automobiles with the same limits of liability.

#### **D. SCOPE OF INSURANCE AND SPECIAL HAZARDS**

The insurance required under sub-paragraphs (A),(B), (C) and (D) above shall provide adequate protection for the Contractor against claims which may arise from the Contract, whether such claims arise from operations performed by the Contractor or by anyone directly or indirectly employed by him, and also against any special hazards which may be encountered in the performance of the Contract. In addition, all policies required must not exclude coverage for equipment while rented to other.

#### **E. SUBCONTRACTOR'S INSURANCE**

If any of the work under the Contract is subcontracted, the Contractor shall require subcontractors, or anyone directly or indirectly employed by any of them to procure and maintain the same coverages in the same amounts specified above.

**SOLICITATION NO. K-07-7089-25**  
**BID WORK SHEET**

Price proposals shall be submitted as follows and shall include all costs associated with the performance of this RFB. This includes but is not limited to salaries/wages, materials, equipment, transportation, preparation, overhead, taxes, profit and any other related costs.

A. Cost for Service Plan



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NAME/TITLE OF RESPONDENT (Print or Type):

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ADDRESS OF RESPONDENT (Print or Type):

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TELEPHONE \_\_\_\_\_ FACSIMILE \_\_\_\_\_

FEDERAL TAX I.D. NO. OR SOCIAL SECURITY NO. \_\_\_\_\_

SIGNATURE OF RESPONDENT \_\_\_\_\_

## **APPENDICES**

### **Appendix 1**

#### **Mandatory Terms and Conditions for Contracts Administrative Office of the Courts (AOC).**

**The following are mandatory terms and conditions to be included in all  
AOC contracts:**

**This Contract is made this \_\_\_\_\_ day of \_\_\_\_\_ 2005\_\_\_\_, by and**

between the State of Maryland, Administrative Office of the Courts (the "State" or "AOC") and \_\_, a \_\_ corporation (the "Contractor"), having its principal place of business at \_\_\_\_.

In consideration of the mutual covenants and promises herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the State and the Contractor agree as follows:

**1. Scope of Contract**

**1.1** The Contractor shall provide the services as described in the Contractor's proposal in accordance with the terms and conditions of this Contract and the Exhibits attached to this Contract and incorporated as part of this Contract:

**Exhibit A: Contract Affidavit**

**Exhibit B: Contractor's Proposal**

**Exhibit C: Request for Proposal No. \_\_\_\_\_**

**1.2** If there are any inconsistencies between the contract and any of the Exhibits, the terms of this Contract shall prevail. If there are any inconsistencies between any of the Exhibits, Exhibit C shall prevail.

**1.3** The Procurement Officer may, at any time, by written order, make changes in the work within the general scope of the Contract.

**1.4** Except as otherwise provided in this Contract, if any change causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work, whether or not changed by the order, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. The Contractor must assert in writing its right to an adjustment under this section within thirty (30) days of receipt of a written change order and shall include a written statement setting forth the nature and cost of such claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract.

**1.5** Failure to agree to an adjustment under this section shall be a dispute under the Disputes clause. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.

**2. Term of The Contract**

Performance under this Agreement shall commence on \_\_ and shall continue until agreed upon services are completed, but in any case not later than \_\_\_\_.

**3. Consideration and Payment**

**3.1** The Contractor shall be compensated for services. The total price for the support services to be provided by Contractor under the contract shall be *Dollars* (\$ .00).

**3.2** Payments to the Contractor pursuant to this Contract shall be made no later than thirty (30) days after the acceptance of the support services and receipt of a proper invoice from the Contractor. Each invoice for services rendered must reflect the Contractor's federal tax identification number. Charges for late payment of invoices are prohibited.

**3.3** In addition to any other available remedies, if in the opinion of the Procurement Officer, the Contractor fails to perform in a satisfactory and timely manner, the Procurement Officer may refuse or limit approval of any invoice for payment, and may cause payments to the Contractor to be reduced or withheld until such time as the Contractor meets performance standards as established by the Procurement Officer in accordance with this Contract. The final Contract payment will not be made until after certification is received from the Comptroller of the State that all taxes have been paid.

#### **4. Definitions**

For the purpose of this Agreement, the following definitions shall apply:

**4.1** "Materials" means reports, programs, documentation, models, methods, techniques, presentations, drawings, studies, specifications, estimates, tests, software, designs, graphics, computations, and data provided by the Contractor.

**4.2** "Products" means (i) a machine, its features, conversions, upgrades, elements, or accessories, or any combination of them, provided by the Contractor, and (ii) any of the following provided by the Contractor: machine readable instructions, a collection of machine readable data, such as a database; and related license Materials, including documentation and listings, in any form.

**4.3** "System" means the system as provided by this Agreement.

**4.4** "Type I Materials" means Material that is created under this Agreement.

**4.5** "Type II Materials" means Material existing before this Agreement, or developed during, but independent of this Agreement, in which the Contractor or third parties have all right, title, and interest.

#### **5. Ownership and Rights in Data**



**5.1** The Contractor agrees to furnish the AOC with copies of the following (all of which, for purposes of this Agreement, shall be deemed Type I Materials): computations, computer files, data, model(s), transmittal letters, response letters, and all other documents or correspondence pertinent to the operation of the System produced or received as part of this Agreement. In addition, all hardware and Type I software necessary to the System's performance in accordance with the terms of this Agreement are, and shall remain, the exclusive property of the AOC. Licenses for all Type II Materials (e.g., "off the shelf" software) shall be provided to the AOC with all rights to use the Type II Materials. The Contract shall provide to the AOC copies of all end user software licensing agreements for all Type II Materials, which licensing agreements shall be in accordance with the OEM's standard software license, paid-up licenses through the maintenance period (no upgrades included thereafter), and provided at no additional cost to the AOC. Nothing in this Agreement shall prevent the Contractor from utilizing any general know-how, techniques, ideas, concepts, algorithms, or other knowledge acquired or developed during the performance of this Agreement on behalf of itself and its future customers.

**5.2** The AOC shall be the owner of all Type I Materials and shall be entitled to use them without restriction and without compensation to the Contractor other than specifically provided in this Agreement. The Contract shall have no liability or responsibility for use of the Type I Materials by the AOC beyond their specified use as part of the System as provided by the Contractor in accordance with this Agreement. The Contractor may retain one copy of the Type I Materials, but may not, without prior written consent of the AOC, be entitled to use, execute, reproduce, display, perform, distribute (internally or externally) copies of, or prepare derivative works based on Type I Materials or authorize others to do any of the former. The AOC may duplicate, use, and disclose in any manner and for any purpose whatsoever, and allow others to do so, all Type I Materials.

**5.3** The Contractor agrees that, at all times during the terms of this Agreement and thereafter, the Type I Materials shall be "works for hire" as that term is interpreted under U.S. copyright law. To the extent that any Type I Materials are not works for hire for the AOC, the Contractor hereby relinquishes, transfers, and assigns to the AOC all of its rights, title, and interest (including all intellectual property rights) to all such Type I Materials created under this Agreement, and will cooperate with the AOC in effectuating and registering any necessary assignments.

**5.4** The AOC shall retain full ownership over any materials that it provides to the Contractor under this Agreement.

**6. Warranties** The Contractor hereby represents and warrants that:

**6.1** It is qualified to do business in the State of Maryland and that it will take such action as, from time to time, may be necessary to remain so qualified;

**6.2** It is not in arrears with respect to the payment of any monies due and owing the State of Maryland, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;

**6.3** It shall comply with all federal, State and local laws applicable to its activities and obligations under this Contract;

**6.4** It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract;

**7. Patents, Copyrights**

**7.1** If the Contractor furnishes any design, device, material, process, or other item which is covered by a patent or copyright or which is proprietary to or a trade secret of another, the Contractor shall obtain the necessary permission or license to use such item or items.

**7.2** The Contractor will defend or settle, at its own expense, any claim or suit against the State alleging that any such item furnished by the Contractor infringes any patent, trademark, copyright, or trade secret. The Contractor also will pay all damages and costs that by final judgment might be assessed against the State due to such infringement and all attorney fees and litigation expenses reasonably incurred by the State to defend against such a claim or suit.

**7.3** If any products furnished by the Contractor become, or in the Contractor's opinion are likely to become, the subject of a claim of infringement, the Contractor will, at its option and expense: a) procure for the State the right to continue using the applicable item, b) replace the product with a non-infringing product substantially complying with the item's specifications, or c) modify the item so that it becomes non-infringing and performs in a substantially similar manner to the original item.

**7.4** If the Contractor obtains or uses for purposes of this Contract any design, device, material, process, supplies, equipment, text, instructional material, services or other work, the Contractor shall indemnify the State, its Officers, agents, and employees with respect to any claim, action, cost, or judgment for patent, trademark, or copyright infringement, arising out of the possession or use of any design, device, material, process, supplies, equipment, text, instructional material, services or other work covered by any Contract awarded.

**8. Non-hiring of Employees** No employee of the State of Maryland or any unit hereof whose duties as such employee include matters relating to or affecting the

subject matter of this Contract shall, while so employed, become or be an employee of the Contractor.

9. **Disputes** Any claim regarding the proper interpretation of this agreement shall be submitted, in writing, to the procurement officer, and shall be resolved pursuant to the requirements set forth in the **PROCUREMENT POLICY FOR THE JUDICIAL BRANCH**, Article VI, "Protests and Claims," published at <http://www.courts.state.md.us/procurement/procurementpolicy1-02.pdf>. Pending resolution of a claim under the provisions of that Article, the Contractor shall proceed diligently with the performance of the Contract in accordance with the Procurement Officer's decision.

10. **Maryland Law** The place of performance of this Contract shall be the State of Maryland. This Contract shall be construed, interpreted, and enforced according to the laws of the State of Maryland.

11. **Amendments** Except as provided in section 2, any amendment to this Contract must first be approved in writing by the Procurement Officer, subject to any additional approvals required by State law.

12. **Non-discrimination in Employment** The Contractor agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, marital status, national origin, ancestry, or physical or mental disability unrelated in nature and extent so as reasonably to preclude the performance of such employment; (b) to include a provision similar to that contained in subsection (a), above, in any underlying subcontract; and (c) to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

13. **Contingent Fee Prohibition** The Contractor warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency working for the Contractor to solicit or secure this agreement, and that it has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide salesperson, or commercial selling agency, any fee or other consideration contingent on the making of this agreement.

14. **Non-availability of Funding** If the General Assembly fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal year of this Contract succeeding the first fiscal year, this Contract shall be canceled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either the State's rights or the Contractor's rights under any termination clause in this Contract. The effect of termination of the Contract hereunder will be to discharge both

the Contractor and the State from future performance of the Contract, but not from their rights and obligations existing at the time of termination. The Contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the Contract. The State shall notify the Contractor as soon as it has knowledge that funds may not be available for the continuation of this Contract for each succeeding fiscal period beyond the first.

**15. Termination for Cause** If Contractor fails to fulfill its obligations under this Contract properly and on time, or otherwise violates any provision of the Contract, the State may terminate the Contract by written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or unfinished work provided by the Contractor shall, at the State's option, become the State's property. The State shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by the Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the State can affirmatively collect damages.

**16. Termination for Convenience** The performance of work under this Contract may be terminated by the State in accordance with this clause in whole or, from time to time, in part whenever the State shall determine that such termination is in the best interest of the State. The State will pay all reasonable costs associated with this Contract that the Contractor has incurred up to the date of termination, and all reasonable costs associated with termination of the Contract; however, the Contractor shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination.

**17. Delays and Extensions of Time** The Contractor agrees to perform this agreement continuously and diligently. No charges or claims for damages shall be made by the Contractor for any delays or hindrances, regardless of cause, in the performance of services under this Contract. Time extensions may be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another Contractor in the performance of a State contract, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or the delay of a subcontractor or supplier arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or the subcontractor or supplier.

**18. Suspension of Work** The State unilaterally may order the Contractor in writing to suspend, delay, or interrupt all or any part of its performance for such period of time as the Procurement Officer may determine to be appropriate for the convenience of the State.

**19. Pre-existing Regulations** The applicable statutes and regulations of the State of Maryland in effect at the time of this agreement are incorporated in this agreement.

**20. Financial Disclosure** The Contractor shall comply with the provisions of Section 13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, which requires that every business that enters into contracts, leases, or other agreements with the State of Maryland during a calendar year under which the business is to receive in the aggregate \$100,000 or more, shall, within thirty (30) days of the time when the aggregate value of these contracts, leases or other agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information, to include disclosure of beneficial ownership of the business.

**21. Political Contribution Disclosure** The Contractor shall comply with the provisions of which require that every person that enters into contracts, leases, or other agreements with the State of Maryland, including its agencies, or a political subdivision of the State during a calendar year under which the person receives in the aggregate \$100,000 or more, shall, on or before February 1 of the following year, file with the State Administrative Board of Election Laws certain specified information to include disclosure of political contributions in excess of \$500 to a candidate for elective office in any primary or general election.

**22. Retention of Records** The Contractor shall retain and maintain all records and documents relating to this Contract for three (3) years after final payment by the State hereunder or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the Procurement Officer or the Procurement Officer's designee, at all reasonable times.

**23. Liability for Loss of Data** In the event of loss of any data or records necessary for the performance of this Contract, which such loss is due to the error or negligence of the Contractor, the Contractor shall be responsible, irrespective of cost to the Contractor, for recreating all such lost data or records in a manner, format, and time-frame acceptable to the Department.

**24. Cost and Price Certification** By submitting cost or price information, the Contractor certifies to the best of its knowledge that the information submitted is accurate, complete, and current as of \_\_\_\_\_. The price under this Contract and any change order or modification hereunder, including profit or fee, shall be adjusted to exclude any significant price increases occurring because the Contractor furnished cost or price information which, as of \_\_\_\_\_ was inaccurate, incomplete, or not current.

**25. Subcontracting and Assignment** The Contractor may not subcontract any portion of the services provided under this Contract without obtaining the prior

written approval of the State, nor may the Contractor assign this Contract, or any of its rights or obligations hereunder, without the prior written approval of the State. Any such subcontract or assignment shall be subject to any terms and conditions that the Department deems necessary to protect the interest of the State. The Department shall not be responsible for the fulfillment of the Contractor's obligations to subcontractors.

**26. Indemnification**

**26.1** The Contractor shall indemnify the AOC against liability for any suits, actions, or claims of any character arising from or relating to the performance of the Contractor or its subcontractors under this.

**26.2** The AOC has no obligation to provide legal counsel or defense to the Contractor or its subcontractors in the event that a suit, claim, or action of any character is brought by any person not party to this Contract against the Contractor or its subcontractors as a result of or relating to the Contractor's obligations under this

**26.3** The AOC has not obligation for the payment of any judgments or the settlement of any claims against the Contractor or its subcontractors as a result of or relating to the Contractor's obligations under this Contract.

**26.4** The Contractor shall immediately notify the Procurement Officer of any claim or suit made or filed against the Contractor or its subcontractors regarding any matter resulting from or relating to the Contractor's obligations under the Contract, and will cooperate, assist and consult with the AOC in the defense or investigation of any claim, suit, or action made or filed against the AOC as a result of or relating to the Contractor's performance under this Contract.

**27. Notices** All notices required to be given by one party to the other hereunder shall be in writing and shall be addressed as follows:

State : Daniel A. Coleman, Director  
Procurement and Contract Administration  
Maryland Judicial Center  
580 Taylor Ave.  
Annapolis, Maryland 21401  
(410) 260-1263

**Contractor:**

**In Witness Whereof, the parties have signed this Agreement this \_\_\_\_ day of \_\_\_\_,2003.**

**Approved for form and legal sufficiency this \_\_\_\_ day of \_\_\_\_, 2003**

**Director of Legal Affairs  
David Durfee**

\_\_\_\_\_

**Contractor**

**State of Maryland**

\_\_\_\_\_

\_\_\_\_\_

*Signature*  
*Authorized Representative*

*Robert M. Bell*  
*Chief Judge*

**Date:**\_\_\_\_\_

**Date:** \_\_\_\_\_

## Appendix 2

### **BID/PROPOSAL AFFIDAVIT**

#### **ANTI-BRIBERY, NON-COLLUSION, FINANCIAL DISCLOSURE AND PROCUREMENT AFFIDAVIT**

##### **A. AUTHORIZED REPRESENTATIVE**

I HEREBY AFFIRM THAT:

I am the [title]\_\_\_\_\_ and the duly authorized representative of [Contractor]

and that I possess the legal authority to make the Affidavit on behalf of myself and the Contractor for which I am acting.

##### **B. AFFIRMATION REGARDING BRIBERY CONVICTIONS**

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above Contractor (as is defined in Section 16-101(b) of the State Finance and Procurement Article of the Annotated Code of Maryland), or any of its officers, directors, partners, or any of its employees directly involved in obtaining or performing contracts with public bodies (as is defined in section 16-101(f) of the State Finance and Procurement Article of the Annotated Code of Maryland), has been convicted of, or has had a probation before judgment imposed pursuant to Article 27, Section 641 of the Annotated Code of Maryland, or has pleaded nolo contendere to a charge of, bribery, attempted bribery, or conspiracy to bribe in violation of Maryland law or of the law of any other state or federal law, **except as follows** [indicate the reasons why the affirmation cannot be given and list any conviction, plea, or imposition of probation before judgement with the date, court, official or administrative body, the sentence or disposition, the name(s) of persons) involved, and their current positions and responsibilities with the Contractor]:

##### **C. AFFIRMATION REGARDING OTHER CONVICTIONS**

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above Contractor, or any of its officers, directors, partners, or any of its employees directly involved in obtaining or performing contracts with public bodies, has:

(1) been convicted under state or federal statute of a criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract, fraud, embezzlement, theft, forgery, falsification or destruction of records, or receiving stolen property;



(2) been convicted of any criminal violation of a state or federal antitrust statute;

(3) been convicted under the provision of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. 1961, et seq., or the Mail Fraud Act, 18 U.S.C. 1341, et seq., for acts arising out of the submission of proposals or proposals for a public or private contract;

(4) been convicted of a violation of the State Minority Business Enterprise Law, Section 14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;

(5) been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsection (1), (2), (3), or (4) above;

(6) been found civilly liable under a state or federal antitrust statute for acts or omission in connection with the submission of proposals or proposals for a public or private contract;

(7) admitted in writing or under oath, during the course of an official investigation or other proceeding, act or omissions that would constitute grounds for conviction or liability under any law or statute described above, **except as follows** [indicate reasons why the affirmation cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) or the person(s) involved and their current positions and responsibilities with the Contractor, and the status of an debarment]:

#### D. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above Contractor, or any or its officers, directors, partners, or any of its employees directly involved in obtaining or performing contracts with public bodies, has ever been suspended or debarred (including being issued a limited denial of participation) by any public entity, **except as follows** [list each debarment or suspension providing the dates of the suspension or debarment, the name of the public entity and the status of the proceedings, the name(s) of the persons(s) involved and their current positions and responsibilities with the Contractor, the grounds for the debarment or suspension, and the details of each person=s involvement in any activity that formed the ground for the debarment or suspension];

#### E. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

1. The business was not established and it does not operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to Section 16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland; and
2. The business is not a successor, assignee, subsidiary, or affiliate of a suspended or debarred business, **except as follows** [indicate the reason(s) why the affirmations cannot be given without qualification]:

#### F. SUB-CONTRACT AFFIRMATION

##### I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above Contractor, has knowingly entered into a contract with a public body under which a person debarred or suspended under Title 16 of the State Finance and Procurement Article of the Annotated Code of Maryland will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

#### G. AFFIRMATION REGARDING COLLUSION

##### I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above Contractor has:

1. Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying proposal or offer that is being submitted;
2. In any manner, directly or indirectly, entered into any agreement of any kind to fix the proposal price or price proposal of the bidder or offer of any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the accompanying proposal or offer is submitted.

#### H. FINANCIAL DISCLOSURE AFFIRMATION

##### I FURTHER AFFIRM THAT:

I am aware of, and the above Contractor will comply with, the provisions of Section 13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, which require that every Contractor that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the Contractor is to receive in the aggregate \$100,000 or more shall, within thirty (30) days of the time when the aggregate value

of the contracts, leases, or other agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

I. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above Contractor will comply with the provisions of Article 33, Sections 30-1 through 30-4 of the Annotated Code of Maryland, which require that every person that enters into contracts, leases, or other agreements with the State of Maryland, including it=s agencies or a political subdivision of the State, during a calendar year under which the person receives in the aggregate \$100,000 or more shall, on or before February 1 of the following year, file with the Secretary of State of Maryland certain specified information to include disclosure of political contributions in excess of \$500 to a candidate for elective office in any primary or general election.

J. DRUG AND ALCOHOL FREE WORKPLACE

I CERTIFY THAT:

1. By submission of its proposal or offer, the Contractor, if other than an individual, certifies and agrees that, with respect to its employees to be employed under a contract resulting from this solicitation, the Contractor shall:

- (a) Maintain a workplace free of drug and alcohol abuse during the term of the contract;
- (b) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of drugs, and the abuse of drugs or alcohol is prohibited in the Contractor=s workplace and specifying the actions that will be taken against employees for violation of these prohibitions;
- (c) Prohibit its employees from working under the influence of drugs or alcohol;
- (d) Not hire or assign to work on the contract anyone whom the Contractor knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol and is not actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program;
- (e) Promptly inform the appropriate law enforcement agency of every drug-related crime that occurs in its workplace if the Contractor has observed the violation or otherwise has reliable information that a violation has occurred;
- (f) Establish drug and alcohol abuse awareness programs to inform its employees about;

- (i) The dangers of drug and alcohol abuse in the workplace;
- (ii) The Contractor's policy of maintaining a drug and alcohol free workplace;
- (iii) Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and
- (iv) The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;
- (g) Provide all employees engaged in the performance of the contract with a copy of the statement required by subsection 2(b), above;
- (h) Notify its employees in the statement required by subsection 2(b), above, that as a condition of continued employment on the contract, the employee shall:
  - (i) Abide by the terms of the statement; and
  - (ii) Notify the employer of any criminal drug or alcohol abuse conviction for an offense occurring in the workplace not later than 5 days after a conviction;
- (i) Notify the Procurement Officer within ten (10) days after receiving notice under subsection 2(h)(ii), above, or otherwise receiving actual notice of a conviction;
- (j) Within 30 days after receiving notice under subsection 2(h)(ii), above, or otherwise receiving actual notice of a conviction, impose either of the following sanctions or remedial measures on any employee who is convicted of a drug or alcohol abuse offense occurring in the workplace;
  - (i) Take appropriate personnel action against an employee, up to and including termination; or
  - (ii) Require an employee to satisfactorily participate in a bona fide drug or alcohol abuse assistance or rehabilitation program; and
- (k) Make a good faith effort to maintain a drug and alcohol free workplace through implementation of subsection 2(a)-(j), above.

- 2. If the Contractor is an individual, the individual shall certify and agree as set forth in subsection 4, below, that the individual shall not engage in the unlawful manufacture, distribution, dispensing, possession, or use of drugs or the abuse of drugs or alcohol in the performance of the contract.

#### K. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT

#### I FURTHER AFFIRM THAT:

1. The Contractor named above is a domestic \_\_\_\_\_, foreign \_\_\_\_\_, corporation registered in accordance with the Corporations and Associations Article, Annotated Code of Maryland, and that it is in good standing and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation, and that the name and address of its resident agent filed with the State Department of Assessments and Taxation is:

Name \_\_\_\_\_  
Address \_\_\_\_\_

\_\_\_\_\_  
(If not applicable, so state)

2. Except as validly contested, the Contractor has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury, the State Department of Assessment and Taxation, and the Department of Economic and Employment Development, as applicable and will have all withholding taxes due the State of Maryland prior to final settlement.

#### L. CONTINGENT FEES

##### I FURTHER AFFIRM THAT:

The Contractor has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent working for the Contractor, to solicit or secure the contract, and that the Contractor has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee or agent, any fee or any other consideration contingent on the making of the contract.

#### M. ACKNOWLEDGMENT

**I ACKNOWLEDGE THAT** this Affidavit is to be furnished to the Procurement Officer and may be distributed to units of (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states; and (4) the federal government. I further acknowledge that

this Affidavit is subject to applicable laws of the United States and the State of Maryland, both criminal and civil, and that nothing in this Affidavit or any contract construed to supersede, amend, modify, or waive, on behalf of the State of Maryland or any unit of the State of Maryland having jurisdiction, the exercise of any statutory right or remedy conferred by the Constitution and the laws of Maryland with respect to any misrepresentation made or any violation of the obligations, terms, and covenants undertaken by the above Contractor with respect to (1) this Affidavit, (2) the contract, and (3) other Affidavits comprising part of the contract.

**I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.**

**Date:** \_\_\_\_\_

**By:** \_\_\_\_\_  
(Authorized Representative and Affiant)

**Appendix 3**

**CONTRACT AFFIDAVIT**

21. **AUTHORIZED REPRESENTATIVE**

I HEREBY DECLARE AND AFFIRM that I am the (Title) \_\_\_\_\_,  
and the duly authorized representative of  
(Contractor) \_\_\_\_\_, and that I possess the  
legal authority to make this Affidavit on behalf of myself and the Contractor for which I am  
acting.

**2. CERTIFICATION OF CORPORATION REGISTRATION AND TAX  
PAYMENT**

I FURTHER DECLARE AND AFFIRM that the Contractor named above is a domestic \_\_\_\_\_  
foreign \_\_\_\_\_ (check one) corporation registered in accordance with the Corporations and  
Associations Article, Annotated Code of Maryland, and that it is in good standing and has  
filed all its annual reports, together with filing fees, with the Maryland State Department of  
Assessments and Taxation, and that the name and address of its resident agent filed with the  
State Department of Assessments and Taxation is:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_  
(If not applicable, so state)

I FURTHER CERTIFY that, except as validly contested, the Contractor has paid or has  
arranged for payment of all taxes due to the State of Maryland and has filed all required  
returns and reports with the Comptroller of the Treasury, the State Department of  
Assessments and Taxation, and the Employment Security Administration, as applicable, and  
will have paid all withholding taxes due to the State of Maryland prior to final settlement.

**I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF  
PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND  
CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.**

\_\_\_\_\_  
(Date) By: \_\_\_\_\_  
(Affiant)